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FISCAL IMPACT REPORT

SPONSOR: Payne DATE TYPED: 2/7/01 HB _____
 SHORT TITLE: Employer Immunity From Liability SB 186
 ANALYST: Gonzales

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Labor Department
 State Personnel Office

SUMMARY

Synopsis of Bill

Senate Bill 186 amends Section 50-12-1 NMSA 1978 to delete current statutory reference to exceptions to immunity from liability for references on an employee's job performance when the reference was knowingly false, deliberately misleading, rendered with malicious purpose or violated any civil rights of the employee. This amended provision would take place July 1, 2001.

Significant Issues

According to the Labor Department, this bill only affects the private sector since public employers are currently protected from liability under the doctrine of Sovereign Immunity, recognized under the New Mexico Tort Claims Act, Section 44-4-1 NMSA 1978.

With this bill, a private employer immunity would have to demonstrate that he/she had acted in good faith to be entitled to immunity for giving a reference.

CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP

The Labor Department indicated in its analysis there are potential conflicts with existing current federal and state legislation as well as case law that provides immunity to public employers for actions performed during the scope of their duties. The agency indicated there is currently a cause of action available for misrepresentation against a private employer which would duplicate the protection under this proposal.

JMG/njw